

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CLARENCE KNIGHT,

Petitioner,

v.

M. S. EVANS, WARDEN,

Respondent.

No. C 05-03670 SBA (PR)

**ORDER DENYING REQUEST FOR
CERTIFICATE OF APPEALABILITY AS
UNNECESSARY**

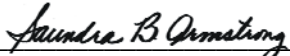
Petitioner has filed a notice of appeal and request for a certificate of appealability pursuant to 28 U.S.C. § 2253(c) and Federal Rule of Appellate Procedure 22(b) following this Court's denial of his habeas petition challenging the decision by prison officials, following a prison disciplinary hearing, revoking 360 days of behavioral/work credit.

Petitioner's request for a certificate of appealability is DENIED as unnecessary. The Ninth Circuit has determined that a state prisoner challenging the execution of a sentence, including the revocation of time credits stemming from prison disciplinary decisions, need not obtain a certificate of appealability. See Rosas v. Nielsen, 428 F.3d 1229, 1232 (9th Cir. 2005).

The Clerk of the Court shall process the notice of appeal.

IT IS SO ORDERED.

DATED: 2/11/09


SAUNDRA BROWN ARMSTRONG
United States District Judge

1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA

4 KNIGHT,

Plaintiff,

5 v.

6 EVANS et al,

7 Defendant.
8 _____/

Case Number: CV05-03670 SBA

CERTIFICATE OF SERVICE

9 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District
10 Court, Northern District of California.

11 That on February 12, 2009, I SERVED a true and correct copy(ies) of the attached, by placing said
12 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said
13 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle
14 located in the Clerk's office.

15 Clarence V. Knight C07508
16 Salinas Valley State
17 P.O. Box 1050
18 Soledad, CA 93960

19 Dated: February 12, 2009

Richard W. Wieking, Clerk
By: LISA R CLARK, Deputy Clerk